

ENVIRONMENTAL CODE

SUMNER COUNTY, KANSAS

<u>CHAPTER 1</u> <u>ADMINISTRATIVE</u> <u>PROCEDURES</u>	<u>CHAPTER 2</u> <u>ON-SITE</u> <u>WASTEWATER</u> <u>MANAGEMENT</u>	<u>CHAPTER 3</u> <u>NONPUBLIC WATER</u> <u>SUPPLIES</u>
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Minimum Separation Distance Between Nonpublic Water Supply Wells and Sources of Pollution Table

CHAPTER 1 **ADMINISTRATIVE PROCEDURES**

SECTION

1-1.0 AUTHORITY AND POLICY

1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq., as amended.

1-1.2 Declaration of Finding and Policy. The Commissioners find that the provision of adequate and reasonable control over environmental conditions in the county is necessary and desirable. An environmental code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt, and amend when necessary, an environmental code for the regulation of practices that affect the environment and public health and safety.

1-1.3 Purpose. The purpose and intent of this chapter is to prescribe the administrative procedures to be followed in administering this environmental code or any amendments thereto.

1-1.4 Title. This code shall be known and referred to as the

SUMNER COUNTY ENVIRONMENTAL CODE.

1-1.5 Applicability. The procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.

1-1.6 Effective Date. This code shall become effective **September 3, 1992**.

1-2.0 DEFINITIONS

The following words, terms and phrases appear in more than one chapter of this code and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific chapters within this code may be found in that particular chapter.

1-2.1 Administrative Agency means the entity authorized to administer and implement the provisions of this code. The Administrative Agency for SUMNER County is designated as the BOARD OF COUNTY COMMISSIONERS.

1-2.2 Administrative Rules means those rules contained in Chapter 1(one) of this environmental codes which prescribe general procedures to be followed in the administration of the environmental code adopted by the county.

1-2.3 Authorized Representative means any person who is designated by the Administrative Agency to administer this code.

1-2.4 Board of County Commissioners means the Board of County Commissioners of SUMNER County, Kansas.

1-2.5 Hearing Officer means an individual, appointed by the Administrative Agency, to hear appeals from decisions relating to the administration of this code.

1-2.6 Person means an individual, corporation, partnership, association, state, or political subdivision thereof, federal, state agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.

1-2.7 Premise means any lot or tract of land and all buildings, structures, or facilities located thereon.

1-2.8 State Department means the Kansas Department of Health and Environment.

1-3.0 ADMINISTRATIVE POWERS AND PROCEDURES

1-3.1 Right of Entry. Representatives of the Administrative Agency shall have the power and the authority to inspect premises for compliance with the **SUMNER County Environmental Code**.

1-3.2 Permit and License.

1-3.2.1 Applications for Permits and Licenses. Every person required by this environmental code to obtain a permit or license shall make application for such permit or license to the Administrative Agency.

1-3.2.2 Issuance of Permit or License. After receipt of an application as required by this code, the Administrative Agency shall begin such investigation as deemed necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within 30 days of such receipt. If the permit or license is denied, the Administrative Agency shall send the applicant a written notice and state the reasons for rejection.

1-3.2.3 Permit Nontransferable. No permit or license required by this environmental code shall be transferable, nor shall any fees required and paid thereof be refundable.

1-3.2.4 Permit Revocation. All permits are subject to revocation for reasons of noncompliance or misrepresentation.

1-3.2.5 Standard Fees. The Administrative Agency shall establish a schedule of fees sufficient to recover direct and indirect costs of processing all permits and licenses required by the code, and said fees shall be paid into the Administrative Agency. The Administrative Agency shall not process any application for a permit or license until the required fee has been paid.

1-3.3 Notices, Orders, Appeals.

1-3.3.1 Notice of Violations. When the Administrative Agency determines that there has been a violation of any provision of this code, notice of such violation shall be issued to the person responsible. The notice shall:

- (a) be in writing;
- (b) include a statement of why the notice is being issued;
- (c) allow a reasonable period of time for performance of any work required by the notice; and,

(d) be properly served upon the owner or agent.

Such notice shall be deemed properly served when a copy has been sent by certified mail to the last known address of the owner or agent.

1-3.3.2 Appeal for Hearing. Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this environmental code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the Administrative Agency, within ten working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The filing of the request for a hearing shall operate as a stay of the notice or order. Upon receipt of such petition, the Administrative Agency shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to show why such notice or order should be modified or withdrawn. The hearing shall be commenced no later than ten working days after the date on which the petition was filed; provided, that upon request of the petitioner, the Administrative Agency may postpone the hearing for a reasonable time beyond such ten-day period, when in the Agency's judgement the petitioner has submitted justifiable reason for such postponement.

1-3.3.3 Report of Hearing. Within ten working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the Administrative Agency. The findings shall include a recommendation that the order be sustained, modified, or withdrawn. Upon the receipt of the report of the Hearing Officer, the Administrative Agency shall consider the report and issue an order confirming, modifying or withdrawing the notice or order, and shall notify the petitioner in the same manner as is provided for in Sec. 1-3.3.1.

1-3.3.4 Emergency Orders. Whenever the Administrative Agency finds that an emergency exists which requires immediate action to protect the public, the Administrative Agency may issue an order reciting the existence of such an emergency, and specifying action to be taken to meet the emergency. Such an order shall be effective immediately. Any person to whom such an order is directed shall comply immediately.

1-3.4 Records.

1-3.4.1 Permit Applications. Applications for permits or licenses required by this code shall be filed with the Administrative Agency.

1-3.4.2 Official Actions. A written record of all official actions taken on applications for permits and licenses required by this environmental code shall be kept on file with the Administrative Agency.

1-3.4.3 Proceedings of Hearings. The proceedings of all hearings, including findings and decisions of the Hearing Officer, and a copy of every notice and order related thereto shall be filed with the Administrative Agency. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.

1-3.5 General Provisions.

1-3.5.1 Enforcement Procedure. The County Attorney or County Counselor shall enforce the provisions of this code and other environmental codes adopted by the county and is hereby authorized and dedicated to file appropriate actions for such enforcement, upon request of the Administrative Agency. Actions of injunction, mandamus, and quo warranto may be utilized for enforcement of these codes shall be governed by the provisions of the Kansas Code of Civil Procedure.

1-3.5.2 Penalties. In addition to, and independently of, the enforcement procedures provided in Section 1-3.5.1, any violation of any provision of an environmental codes shall be deemed to be a misdemeanor and upon conviction, shall be punishable by a fine not to exceed two hundred dollars (\$200) for each offense. Each day's violation shall constitute a separate offense. (KSA-19-3707)

1-3.5.3 Disclaimer of Liability. This code and other environmental codes adopted shall not be construed or interpreted as imposing upon the county or its officials or employees (1) any liability or responsibility for damages to any property, or (2) any warranty that any system, installation or portion thereof that constructed or repaired under permits and inspections required the protection code will function properly.

1-3.5.4 Separability. If any clause, sentence, paragraph, section or subsection of this code shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgement shall not affect, repeal or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or subsection found to be unconstitutional and invalid. (KSA-19-3708)

CHAPTER 2

ON-SITE WASTEWATER MANAGEMENT

SECTION

2-1.0 PURPOSE AND INTENT

Sewage is a potential source of disease and water pollution, and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of SUMNER County.

2-2.0 APPLICABILITY

The provisions of this chapter shall apply to all unincorporated areas located in SUMNER County, Kansas.

2-3.0 DEFINITIONS

2-3.1 Beneficial Use means the use of water for any of the following purposes: agricultural water supply; aquatic life; domestic water supply; groundwater recharge; industrial water supply; recreation.

2-3.2 Domestic Wastewater means wastewater originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, bath, showers and sinks.

2-3.3 Nuisance means conditions or activities on properties both public and private, which have or threaten to have a detrimental effect on the environment or the health of the public.

2-3.4 Private Wastewater System means any system which does not hold a Kansas Water Pollution Control Permit pursuant to K.S.A. 65-165. This includes wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.

2-3.5 Sanitary Privy means a facility designed for the disposal of non-water carried wastes from the human body.

2-3.6 Sanitary Service means the pumping out and/or removal of sewage, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater disposal systems; and the transportation of such material to a point of final disposal.

2-3.7 Seepage Pit means a subsurface excavation, which is filled with rock or gravel and receives effluent from treatment devices.

2-3.8 Sewage means any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.

2-3.9 Subdivision means any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future, including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any redivision of lands.

2-3.10 Wastewater System means any system along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.

2-3.11 Vaults/Holding Tank means a water-tight receptacle for the retention of sewage either before, during, or after treatment.

2-4.0 PROHIBITED PRACTICES

2-4.1 Use of Nonapproved Private Systems. No person shall use, or cause to be used, any private wastewater system or sanitary privy constructed after adoption of this environmental code until it has been inspected and approved by the Administrative Agency or if it:

(a) has been enjoined as a public health nuisance by a court of competent jurisdiction; or,

(b) fails to comply with the provisions of this environmental code, and written notice thereof has been given by the Administrative Agency; or

(c) discharges onto the surface of the ground, or waters of the state as defined in K.S.A. 65-161(a) or,

(d) receives non-domestic wastewater, causes vector breeding, or produces offensive odors or any condition that is detrimental to health and comfort.

2-4.2 Use of Private Wastewater Systems Within 400 Feet of Public Sewer. No private wastewater system shall be constructed within 400 feet of an existing public sewer, unless the Administrative Agency finds that connection to such a sewer is not feasible and that a private wastewater system, meeting the

requirements of this code, can be constructed on that property.

2-4.3 Location of Private Wastewater Systems Below Full/Flood Pool. No portion of a private wastewater system shall be located below the flood pool elevation of any reservoir or full pool elevation of any pond, lake, or water supply reservoir.

2-4.4 Location of Private Wastewater Systems within a 100 Year Flood Plain. No portion of a private wastewater system shall be located within the 100 year flood plain, as established by the Federal Emergency Management Agency, of any stream, river, or water course.

2-4.5 Location of a Private Wastewater System Within 100 Feet of Private Water Well. No portion of a private wastewater system shall be located less than 50 feet from a private water well or a water line from a private water well. No sanitary sewer line, regardless of construction, shall be located less than 10 feet from a private water well or a water line from a private water well.

2-4.6 Transfer of Property Ownership. No person shall transfer the ownership of any property with a private wastewater system or sanitary privy until it has been inspected and approved by the Administrative Agency.

2-5.0 REQUIREMENTS FOR PRIVATE WASTEWATER DISPOSAL SYSTEMS

2-5.1 Approval of Plans. After adoption of this code no person shall develop any private wastewater system until the plans and specifications for such system have been approved by the Administrative Agency. References approved by the State Department may be used as a guide by the Administrative Agency in reviewing and approving plans for private wastewater disposal systems.

2-5.2 Permit. No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until a permit has been issued by the Administrative Agency.

2-5.3 Suitable Site. No site shall be approved if:

(a) connection to an approved public wastewater system is feasible or the site violates tire provisions of Section 2-4.0 of this code; or,

(b) the site contains less than two(2) acres of land exclusive of roads, streets, or other public rights-of-way or easements; or,

(c) the soil, topography, and geology do not meet the requirements set forth in Section 2-6.0.

2-5.4 Construction Approval. All private wastewater systems developed or modified after the effective date of this environmental code must be inspected and approved by the Administrative Agency for compliance with the approved plans. No portion of the system shall be covered or made inaccessible to inspection prior to approval.

2-5.5 Proper Maintenance and Operation. All private wastewater systems shall be maintained in good working condition. Whenever the Administrative Agency finds any private wastewater disposal system in violation of this code, the owner and/or user shall be ordered to correct the condition.

2-5.6 Waiver. The Administrative Agency shall have the authority to grant exceptions when reliable information is provided which can justify the exception and which will still protect the beneficial uses of the waters of the state and not create a nuisance.

2-6.0 MINIMUM STANDARDS

2-6.1 Standards for Soil Topography and Geology. No private wastewater system which is dependent upon soil absorption for the disposal of wastewater, shall be constructed on any lot of any size unless specifying limits for soil, topography, geology as established in KDHE Bulletin 4-2 are met.

2-6.2 Standards for Discharge into Private Wastewater Systems No cooling water, discharge from roof drains, discharge from footing tile drains or swimming pool wastewater shall be directed to the private wastewater system. No automotive grease, oil, antifreeze or toxic or hazardous waste from a commercial or manufacturing business or any other than domestic waste shall be discharged to a private wastewater system.

2-7.0 REQUIREMENTS FOR PRIVIES

2-7.1 Approval of Plans. No person shall construct or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.

2-7.2 Approval of Construction. No person shall use, or make available for use, any newly use, any newly constructed or modified privy until the construction has been inspected and approved by the Administrative Agency for compliance with approved plans.

2-7.3 Proper Maintenance. No person shall use, or offer for use, any privy that is

not maintained in a clean and sanitary condition.

2-7.4 Vault Required in Certain Areas. In areas where the elevation of the groundwater is within four feet of the bottom of the pit, a watertight vault shall be provided in lieu of the standard pit.

2-7.5 Location of a Privy Within 100 Feet of a Private Well. No privy shall be installed less than 100 feet from an existing private water well.

2-8.0 SANITARY SERVICES

2-8.1 Permit Required. No person shall remove or transport any wastes from any wastewater system or privy, unless that person holds a valid permit from the Administrative Agency.

2-8.2 Contracting With Unlicensed Persons Prohibited. No person responsible for operating a private wastewater system or privy shall contract with any person for sanitary service unless that person holds a valid license.

2-8.3 Minimum Standards for Sanitary Service Equipment. All equipment used for rendering of sanitary service shall be of watertight construction and maintained in good working condition. This ensures that all materials removed from private wastewater disposal systems or privies will be transported to an approved point of disposal without spillage of the waste.

2-8.4 Disposal of Spillage. Any person removing or transporting any waste from any private wastewater system or sanitary privy shall be responsible for any and all spillage.

2-9.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT

After adoption of this code no person shall develop any subdivision until the plans and specifications for on-site wastewater management have been approved by the Administrative Agency.

CHAPTER 3

NONPUBLIC WATER SUPPLIES

SECTION

3-1.0 PURPOSE AND INTENT

The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of all water supplies other than Public Water Supplies in SUMNER County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.

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3-2.0 APPLICABILITY

The provisions of this chapter shall apply to all unincorporated areas located in Sumner County, Kansas.

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3-3.0 DEFINITIONS

3-3.1 Public Water Supply means a system that has at least ten service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

3-3.2 Nonpublic Water Supply means all water supplies not meeting the definition of Public Water Supply.

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3-4.0 REQUIREMENTS FOR NONPUBLIC WATER SUPPLIES

3-4.1 Permit. No person shall develop, use, sell, or lease any non-public water supply until a permit has been obtained from the Administrative Agency.

3-4.2 Approved Plans. No permit to develop a non-public water supply subject to regulations of this code shall be issued until the plans have been approved by the Administrative Agency. References approved by Kansas Department Of Health and Environment shall be used as a guide by the Administrative Agency in reviewing and approving plans for non-public water supply systems.

3-4.3 Non-public Water Supplies Which Serve Two to Nine Service Connections.

All non-public water supplies which serve two to nine service connections shall:

(a) mechanically chlorinate the water delivered to the connections; and,

(b) test for bacteriological quality at least every three months; and,

(c) maintain logs to verify chlorine residuals and bacteriological quality for a period of at least one year.

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3-5.0 MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES

3-5.1 Location. All wells used as sources of water for nonpublic water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown in Table I. Such distances may be increased by the Administrative Agency to provide assurance that the well will not be contaminated.

3-5.2 Construction and Enforcement. Well construction and the enforcement of this section of the environmental code shall be regulated in accordance with K.A.R. 28-30-1 through 28-30-10 et seq. as amended.

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3-6.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT

After adoption of this code no person shall develop any subdivision until the plans and specifications for water supply provision and/or protection have been approved by the Administrative Agency.

3-7.0 TRANSFER OF PROPERTY OWNERSHIP No person shall transfer the ownership of any property with a water supply subject to the regulations of this code until the supply is inspected by the Administrative Agency and the results of that inspection are made available to the transferee.

TABLE 1

Minimum Separation Distance Between Nonpublic Water Supply Wells and Sources of Pollution

<u>Source of Pollution</u>	<u>Minimum Separation</u>	<u>Recommended Separation</u>
Subsurface absorption field for septic tank effluent	50 feet	100 feet
Pit	50 feet	100 feet
Barnyards, stables, manure, piles, animal pens, etc	50 feet	100 feet
Streams, lakes and ponds as stated in Article 30 (Ref. K.A.R. 28-30-8(b))	25 feet	50 feet
Sewer lines, not constructed of cast iron or other equally tight construction	50 feet	100 feet
Sewer lines constructed of cast iron or other equally tight construction	10 feet	10 feet

* As required by K.A.R. 28-10-101

1. The minimum required separation distance between a wastewater system and a well is 50 feet. However, a separation distance of 100 feet or more is recommended for greater protection of the water supply.

2. The minimum required separation distance between a privy and a well is 50 feet. However, a separation distance of 100 feet or more is recommended for greater protection of the well.